



January 24, 2003

Chairs of the appropriate Senate and House Committees
Address

Dear Senator/Representative:

I am writing you on behalf of the Washington State Citizens Committee on Pipeline Safety ("WCC"), which I chair. As is described in greater detail below, the WCC urges you and your colleagues to take the steps necessary to ensure that the federal Office of Pipeline Safety's ("OPS") has the statutory authority necessary to reimburse states for travel out of state when conducting pipeline safety inspections, including the newly mandated integrity management program inspections.

The WCC was created in statute by the Washington State Legislature following the tragic petroleum pipeline explosion in Bellingham, Washington on June 10, 1999, where three youths lost their lives. The committee is made up of thirteen members representing local governments and the public, including four members representing the pipeline industry. The group's charge is to advise appropriate state, federal and local government agencies and officials on matters relating to hazardous liquid and natural gas pipeline safety.

As chair of the WCC, last year I provided advice to federal lawmakers in testimony before the House Committee on Energy and Commerce on the Pipeline Reauthorization Bill. That testimony supported improved pipeline safety, damage prevention education, and continued opportunity for states to enter into interstate agent agreements with OPS.

An important aspect of the U.S. Department of Transportation, Research and Special Programs Administration's ("RSPA") improvements to pipeline safety is the concept of pipeline integrity management as specified in federal rules found at 49 CFR, Part 195.452 (Pipeline Integrity Management in High Consequence Areas). In August 2002, the General Accounting Office ("GAO") completed a report to Congress on Pipeline Safety and Security (Report Number GAO-02-785) where the topic of integrity management and the OPS's plans for ensuring compliance with this rule were specifically addressed.

As the GAO report points out, OPS has set an ambitious schedule for implementing integrity management. GAO notes that OPS will need to increase its workforce of federal pipeline safety inspectors by some fifty percent from fiscal year 2001, in addition to using approximately 100 state inspectors, in order to review the integrity management programs for the hazardous liquid and gas transmission operators over which it has jurisdiction¹. From this statement, it is clear that a workforce of state pipeline safety inspectors is critical to OPS's potential success in integrity management.

Now we understand that the OPS has adopted a policy directive that appears to thwart chances for the agency to successfully implement an adequate program to assure public safety from pipeline incidents in the future. The RSPA's Deputy Counsel has provided a new legal interpretation of OPS's statutory authority that would prohibit state inspectors from being reimbursed for travel outside their states to, for example, inspect pipeline company records. This interpretation also hinders states in fulfilling their interstate agent inspection responsibilities, part of which, is to participate in out-of-state integrity management program inspections.

Based on this legal interpretation, OPS sent word in Fall 2002 to state pipeline safety program managers that "out-of-state expenses (travel and labor costs) cannot be charged to the pipeline safety program grant fund and can not be part of the expenses submitted as allowable program costs for federal reimbursement"² (see Attachment A). The implied message to state pipeline safety programs from OPS appears to be "we don't need you." This would appear to be in direct conflict to the GAO's conclusions about what it will take to successfully implement the integrity management program. This also appears to be in conflict with the concept of establishing a cost effective "federal/state" team approach to integrity management.

The National Association of Pipeline Safety Representatives ("NAPSR"), an organization of state pipeline safety managers, engineers, and technical personnel who inspect gas and liquid pipeline operators for compliance of safety regulations across the nation, passed a resolution expressing concern about OPS's recent policy change at a national meeting in September 2002. (Attachment B). We believe this issue needs Congressional review so that states can continue to carry out their significant partnership role in pipeline safety throughout the nation. We support the resolution by

¹ GAO-02-785 Pipeline Safety and Security, page 25.

² E-mail from G. Tom Fortner on August 26, 2002 to state pipeline safety program managers (Attachment A).

The Honorable Senator Fritz Hollings

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NAPSR and request that Congress investigate whether legislative action is necessary to address OPS's perceived lack of authority in this area.

Thank you for your interest in pipeline safety and your continued support to enhance the safety of this nation's pipeline infrastructure.

Sincerely,

Chuck Mosher
Chairman

Enclosures

cc: Jim Anderson, Chairman NAPSR

Attachment A

"Tom Fortner"

<Tom.Fortner@rspa.dot.gov>

08/26/2002 11:36 AM

To: NAPSAR Alabama <al@napsr.net>, NAPSAR Arkansas <ar@napsr.net>, NAPSAR California PUC <capuc@napsr.net>, NAPSAR California SFM <casfm@napsr.net>, NAPSAR Colorado <co@napsr.net>, NAPSAR , Connecticut <ct@napsr.net>, NAPSAR Delaware <de@napsr.net>, NAPSAR District of Columbia <dc@napsr.net>, NAPSAR Florida LPG <flpg@napsr.net>, NAPSAR Florida PUC <flpuc@napsr.net>, NAPSAR Georgia <ga@napsr.net>, NAPSAR Idaho <id@napsr.net>, NAPSAR Illinois <il@napsr.net>, NAPSAR Indiana <in@napsr.net>, NAPSAR Iowa <ia@napsr.net>, NAPSAR Kansas <ks@napsr.net>, NAPSAR Kentucky <ky@napsr.net>, NAPSAR Louisiana <la@napsr.net>, NAPSAR Maine <me@napsr.net>, NAPSAR Maryland <md@napsr.net>, NAPSAR Massachusetts <ma@napsr.net>, NAPSAR Michigan <mi@napsr.net>, NAPSAR Minnesota <mn@napsr.net>, NAPSAR Mississippi <ms@napsr.net>, NAPSAR Missouri <mo@napsr.net>, NAPSAR Montana <mt@napsr.net>, NAPSAR Nebraska <ne@napsr.net>, NAPSAR Nevada <nv@napsr.net>, NAPSAR New Hampshire <nh@napsr.net>, NAPSAR New Jersey <nj@napsr.net>, NAPSAR New Mexico <nm@napsr.net>, NAPSAR New York <ny@napsr.net>, NAPSAR North Carolina <nc@napsr.net>, NAPSAR North Dakota <nd@napsr.net>, NAPSAR Ohio <oh@napsr.net>, NAPSAR Oklahoma <ok@napsr.net>, NAPSAR OPS Help Desk <opsHELP@napsr.net>, NAPSAR Oregon <or@napsr.net>, NAPSAR Pennsylvania <pa@napsr.net>, NAPSAR Puerto Rico <pr@napsr.net>, NAPSAR Rhode Island <ri@napsr.net>, NAPSAR South Carolina <sc@napsr.net>, NAPSAR South Dakota <sd@napsr.net>, NAPSAR Tennessee <tn@napsr.net>, NAPSAR Texas <tx@napsr.net>, NAPSAR Utah <ut@napsr.net>, NAPSAR Vermont <vt@napsr.net>, NAPSAR Virginia <va@napsr.net>, NAPSAR Volpe Center <volpe@napsr.net>, NAPSAR Washington <wa@napsr.net>, NAPSAR West Virginia <wv@napsr.net>, NAPSAR Wisconsin <wi@napsr.net>, NAPSAR Wyoming <wy@napsr.net>, Terry Fronterhouse <az@napsr.net>

cc: "Sanders Richard" <richard_sanders@TSI.JCCBI.GOV>, "Joseph Anne Marie" <Annemarie.Joseph@rspa.dot.gov>, "Hill Gwendolyn" <Gwendolyn.Hill@rspa.dot.gov>, "Wiese Jeff" <Jeff.Wiese@rspa.dot.gov>, OPS Regional Directors <OPSRegionalDirectors@RSPA.dot.gov>, OPS State Liaisons <OPSSStateLiaisons@RSPA.dot.gov>, "Gerard Stacey" <Stacey.Gerard@rspa.dot.gov>, "Daugherty Linda (OPS-HQ)" <Linda.Daugherty@rspa.dot.gov>

Subject: Inspection/travel guidelines out-of- state

Below is guidance concerning travel and \$\$ that OPS can pay for IM inspections (plan review or field). We are developing a travel policy that will address these issues on all types of out of state inspections and will present it at the NAPSAR annual board mtg in Sept. There was a need for the Liquid states to get this info prior to this meeting--this is being sent to NAPSARall so that each program can see where we are going with the development of this policy. There will be impact on all or our multi-state inspection efforts. Questions give me a call.

Tom

State Liquid Integrity Management Guidelines

A state agency must participate in the liquid pipeline safety program with OPS in order to be able to participate in IM plan review or field inspections.

Travel

Travel costs for IM inspections within your state will be subject to the same process as all inspections of the state pipeline programs. Inspection cost is an allowed expense for purposes of reimbursement

through the state pipeline safety grant program. There will be no invitational travel for these or any other types of inspections.

Travel Policy (out of state)

The Office of Pipeline Safety can not require state personnel to do inspections out of their home state for any type pipeline inspection. However, the state through its own authority may be in contact with the operator, and may make arrangements to participate in the liquid IM comprehensive inspection process. Out-of-state expenses (travel and labor costs) cannot be charged to the pipeline safety program grant fund and can not be part of the expenses submitted as allowable program costs for federal reimbursement.

State Participation

Generally, the OPS liquid IM comprehensive inspections will be interstate inspections or intrastate inspections where there is no state liquid pipeline safety program. When there is state participation with OPS, coordination of assignments during the inspection (which are germane to their state) will be through the OPS lead inspector. A limit of one inspector per state is requested in order to have a manageable team for this process.

Attachment B

NAPSR National Board
St. Louis, MO

CR -1-02

Resolution: Support of Continuation of Out-of-State Travel for Interstate Agent inspections.

Whereas, the Federal Office of Pipeline Safety has instituted inspection agreements with the state interstate agents for several years, and

Whereas, in the past, states have been encouraged to participate in joint federal/state inspections on interstate pipelines through their states, and have required special training, and

Whereas, interstate inspections have often required state inspectors to travel to neighboring states to review records for pipeline facilities within their state, and

Whereas, pipeline companies have refused in the past to keep duplicate records in each state and to do so would be duplicative and burdensome on the industry, and

Whereas, some states have been required by state legislation to seek interstate agent authority and have involved significant resources in qualifying inspection personnel, including integrity management training, and

Whereas, states have been recently informed by RSPA/OPS that any out-of-state inspection of records will not be reimbursed as part of the Pipeline Safety Grant Program, resulting in additional costs to states and industry.

Now Therefore Be It Resolved that,

NAPSR will seek congressional review of the RSPA Deputy Chief Counsel's Opinion, which places restrictions on Interstate Agents to participate in joint federal/state inspections outside their state,

and

NAPSR recognizes that, the interpretation adds additional regulatory burden on the industry to submit duplicate inspection documents while further weakening the states authority to perform its public safety responsibilities over pipelines passing through its boundaries,

and

NAPSR requests a review of the decision of the RSPA Deputy Chief Counsel's interpretation and/or modify the appropriate federal statutes, to allow states to continue inspections outside their boundaries, and be funded by the Pipeline Safety Grant Program.